

Under Illinois law, a trade-in credit is available to a retailer when the purchaser trades in tangible personal property of like kind and character as that which is being sold by the retailer. See 86 Ill. Adm. Code 130.425. (This is a GIL.)

February 16, 2001

Dear Xxxxx:

This letter is in response to your letter dated December 6, 2000 that we received on December 18, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be accessed at the Department's Web site at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

I am performing an audit of a client who is engaged in the coin operated amusement business. The client routinely purchases new amusement machines using a combination of cash and credits issued by the vendor for older machines which are traded-in. Because of the nature of the business, the machines to be traded-in are normally returned to the vendor within 30 days, but sometimes longer, after the new machine has been put in place. Once returned the vendor issues credit for the machine which has been traded-in. Because of the length of time elapsed between receipt of the new machine and return of the traded-in machine, the credit memos issued for the trade-in machines may or may not be applied directly to the payment of the invoice for the newly acquired machine which was part of the transaction.

It is my understanding that the length of time required to fully complete these transactions does not prevent my client from using the value of the new machine less the trade-in credit to determine his use tax liability. However, I understand that there must be sufficient auditable evidence that the purchase and of the new machine and trade-in of the old were part of the same transaction. Will either of the following two possible situations provide sufficient evidence of the trade-in arrangement to permit using the value of the new machine less the trade-in value to determine use tax liability.

1. The vendor's invoice for the new machine makes no direct reference to a trade-in situation. However, the credit memo he issues does state that the value being allowed is part of a trade-in transaction although again no direct reference is made to the invoice of the new machine purchased as part of the transaction.
2. The vendor's invoice for the new machine makes no direct reference to a trade-in situation. However, the credit memo he issues does state that the value being

allowed is part of a trade-in transaction although again no direct reference is made to the invoice of the new machine purchased as part of the transaction. However, there is a separate memo from the vendor accompanying the credit memo issued for the trade-in value identifying both the original invoice and the credit memo as being part of the same transaction.

If you have any questions or need additional information, please contact me

Thank you for your prompt consideration and response.

Under Illinois law, a trade-in credit is available when the purchaser trades in tangible personal property of like kind and character as that which is being sold. See 86 Ill. Adm. Code 130.425 and 130.455, enclosed. Although 86 Ill. Adm. Code 130.455 specifically speaks to vehicle transactions, this regulation can apply to other types of tangible personal property if the guidelines contained therein are met.

After reviewing the factual situation set out in your letter, we conclude that the machines returned to the vendor do not qualify for "trade-in" status. Trade-ins are used to decrease the taxable gross receipts from a sale at the time that a new purchase occurs. Unless like-kind property is exchanged at the time of the sale, there can be no "trade-in." Pursuant to the relevant regulations, the transactions described in your letter must be treated as separate sales because they do not meet the requirements for either a trade-in or an advanced trade-in. As a general proposition, no deferred trade-in credits are authorized. Please refer to Section 130.455(e).

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Karl W. Betz
Associate Counsel

KWB:msk
Enc.